



3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169-5996
Facsimile (702) 949-8321
Telephone (702) 949-8320

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Rob Charles NV State Bar No. 006593
Email: rcharles@lrlaw.com
John Hinderaker AZ State Bar No. 018024
Email: jhinderaker@lrlaw.com
Anthony Austin NV State Bar No. 10850
Email: aaustin@lrlaw.com

Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,¹

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,²

USA SECURITIES, LLC,³

Debtors.

Case No. BK-S-06-10725-LBR,
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR,
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**Response of USACM Liquidating
Trust to September 26, 2009 Letter
Filed by Marcia Knox (with Certificate
of Service)**

Date of Hearing: November 13, 2009
Time of Hearing: 9:30 a.m.

Affects:

- ☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Marcia Knox filed a letter dated September 26, 2009 (the "Letter") with the Court.
[DE 7577.] The USACM Trust asks that the Court construe the Letter from Ms. Knox as a
motion to reconsider disallowance of claims under 11 U.S.C. § 502(i); hear oral argument

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

on the motion at the November 13, 2009 omnibus hearing; and deny the requested relief because Ms. Knox's claims were correctly disallowed.

MEMORANDUM

Ms. Knox filed 21 separate proofs of claim in the USACM bankruptcy. Her claims are based upon just three investments, which totaled \$200,000: (1) \$50,000 in the Gateway Stone Loan; (2) \$100,000 in the Bay Pompano Beach Loan; and (3) \$50,000 in the Anchor B Loan. Attached as **Exhibit A** is an excerpt from the Exhibit A to the interim distribution motion [DE 7486] that includes all of Ms. Knox's claims and shows their current status.

I. GATEWAY STONE OBJECTIONS

The Trust objected to all claims based upon investments in the Gateway Stone Loan because the direct lenders were paid in full on that loan. Ms. Knox does not appear to contest this and she did not oppose the objection. Accordingly, her proofs of claim related to the Gateway Stone Loan were properly disallowed by the Court.

II. BAY POMPANO LOAN

The Bay Pompano Loan performed, but there was unremitted principal associated with that loan. Accordingly, the Trust moved to allow claims based upon unremitted principal and objected to the remainder of the Bay Pompano claims.

On the Trust's motion, the Court approved Proof of No. 10725-01028 in the amount of \$27,916.09, which represents Ms. Knox's unremitted principal claim from the Bay Pompano Loan. [DE 7411.] Neither Ms. Knox nor any other direct lender objected to the Bay Pompano omnibus objections. The Court sustained the Bay Pompano omnibus objections and, therefore, Ms. Knox has no unresolved claims related to that loan. The Court properly disallowed Ms. Knox's claims based upon the Bay Pompano loan.

III. ANCHOR B LOAN

The Anchor B Loan is a partially performing loan in which Ms. Knox made a \$50,000 investment. The Trust has not addressed the Anchor B claims yet. Ms. Knox still has an unresolved claim based upon the Anchor B Loan: Proof of Claim No. 10725-01634 in the amount of \$55,266.83.

The Trust objected to Ms. Knox's other Anchor B related claims because those claims were duplicative of Proof of Claim No. 10725-01634. Ms. Knox did not respond to the omnibus objections and the Court granted them. Ms. Knox has one unresolved claim for \$55,266.83 arising out of the Anchor B loan, which is exactly what she should have.

IV. CONCLUSION

Council for the Trust has attempted to explain the situation to Ms. Knox and assure her that the current status of her claims is appropriate. The Trust has been unable to reach an understanding with Ms. Knox. Accordingly, the Trust asks that the Court construe her September 13, 2009 letter as a motion to reconsider her disallowed claims; hear oral argument on Ms. Knox's motion at the omnibus hearing on November 13, 2009; and deny Ms. Knox the requested relief.

The Trust has no objection to Ms. Knox appearing telephonically at the hearing and it has explained to Ms. Knox how to request leave to appear telephonically.

DATED: October 23, 2009.

LEWIS AND ROCA LLP

By s/John Hinderaker (#18024)

Rob Charles, NV 6593

John C. Hinderaker, AZ 18024 (*pro hac vice*)

Anthony Austin, NV 10850

3993 Howard Hughes Parkway, Suite 600

Las Vegas, Nevada 89169

Telephone: (702) 949-8200

Facsimile: (702) 949-8398

E-mail: rcharles@lrlaw.com

Attorneys for the USACM Liquidating Trust

LEWIS
AND
ROCA
LLP
LAWYERS

PROOF OF SERVICE

Copy of the foregoing mailed by
First Class U.S. Mail, postage prepaid,
on October 23, 2009, to the following party:

Marcia J. Knox
1885 Vintners Place
Reno, NV 89519

s/Renee L. Creswell